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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/531,622

04/14/2005

David S. Foell

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35227 7590 01/18/2007  
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EXAMINER

SAFAVI, MICHAEL

ART UNIT

PAPER NUMBER

3673

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
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3 MONTHS

01/18/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

## Office Action Summary

**Application No.**

10/531,622

**Applicant(s)**

FOELL ET AL.

**Examiner**

M. Safavi

**Art Unit**

3673

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. ____                                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>9/14/05</u> .   | 6) <input type="checkbox"/> Other: ____                           |

***Amendment***

Applicant is reminded of the provisions of 37 CFR 1.121(c)(3) which states, "Any claim added by amendment must be indicated with the status of "new" and presented in clean version, i.e., without any underlining."

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-18 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1, line 10, "the octagonal tubular formwork...elements" lacks antecedent basis within the claim. Therefore, it is not clear as to what "the octagonal tubular formwork...elements" refers.

Claim 2, to which engagement portion does "the male engagement portion" refer?

Claim 3, to which engagement portion does "the male engagement portion" refer?

Claim 12, to which engagement portion does "the male engagement portion" refer?

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

**Claims 1-4, 6, 8, 10-13, 15, and 17 are rejected under 35 U.S.C. 102(b) as being anticipated by Piccone '648.** Piccone '648 discloses, Figs. 3 and 4, a panel 14 having perforations 55 with engagement portions 78, 80 at the end thereof in the form of an H-shaped engagement portion. As for **claims 10 and 11**, Piccone '648 shows, as in Fig. 1, finishing a plurality of elongated tubular form elements as by mating an insert panel 14 with at least one of the elongated tubular form elements.

**Claims 1-9 and 12-18, are rejected under 35 U.S.C. 102(b) as being anticipated by Pluckebaum '427.** Pluckebaum '427 discloses, Figs. 9 and 10, a panel 1, 11 having respectively, one substantially straight or flat surface, (panel 1), and two substantially straight or flat surfaces residing at a perpendicular angle relative to each other, (panel 11), with engagement portions 2, 2' at the end thereof in the form of

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an H-shaped engagement portion. Panels 1 and 11 have perforations for accommodating fasteners as can be seen in Fig. 1.

**Claims 1-9 and 12-18, are rejected under 35 U.S.C. 102(b) as being anticipated by McNamara '999.** McNamara '999 discloses, Figs. 8-10, a panel 52, 64 having respectively, one substantially straight or flat surface, (panel 52), and two substantially straight or flat surfaces residing at a perpendicular angle relative to each other, (panel 64), with engagement portions 54, 66 at the end thereof in the form of a T-shaped or P-shaped engagement portion. Panels 52 and 64 have perforations as can be seen in Figs. 9 and 10.

**Claims 1, 10, and 11 are rejected under 35 U.S.C. 102(b) as being anticipated by Kim '947.** Kim '947 discloses, Figs. 3C and 8, a panel 25 having engagement portions 26 at the end thereof. As for **claims 10 and 11**, Kim '947 shows, as in Fig. 3C, finishing a plurality of elongated tubular form elements as by mating an insert panel 25 with at least one of the elongated tubular form elements 21.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to M. Safavi whose telephone number is (571) 272-7046. The examiner can normally be reached on Mon.-Thur., 8:30-5:00.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patricia Engle can be reached on (571) 272-6660. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



**MICHAEL SAFAVI**  
**PRIMARY EXAMINER**  
**ART UNIT 354**

M. Safavi  
January 04, 2007